



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,393	08/27/2003	Kenichi Mitsumori	9281-4664	6750

7590 07/26/2007  
Gustavo Siller, Jr.  
BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, IL 60610

EXAMINER
----------

STINSON, FRANKIE L

ART UNIT	PAPER NUMBER
----------	--------------

1746

MAIL DATE	DELIVERY MODE
-----------	---------------

07/26/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/650,393

Applicant(s)

MITSUMORI ET AL.

Examiner

FRANKIE L. STINSON

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 16-19 and 27-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-19 and 27-32 are is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 1746

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 16-19 and 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson (U. S. Pat. No. 3,154,890) in view of either Harris (U. S. Pat. No. 2,848,672) or Olsson et al. (U. S. Pat. No. 6,153,964).

Re claims 27, 30 and 31, Lemelson is cited disclosing all of the claimed subject particularly a wet treatment nozzle comprising:

an ultrasonic cleaner comprising a housing, an ultrasonic transducer (16) placed on a bottom surface of the housing,

an introduction passage (18 ) for introducing a treatment liquid on a side of the ultrasonic cleaner;

an exhaust passage (19) which exhausts the treatment liquid on an other side of the ultrasonic cleaner after a wet treatment of an object to be treated, the exhaust passage exhausting the treatment liquid that wet treated the object;

wherein the ultrasonic cleaner, while vibrating, guides the treatment liquid to wet treat the object to be treated,

wherein a pressure controller (col. 3, lines 50-64) that differs from the claim only in the recitation of the pressure being controlled so that the treatment liquid in contact with the object does not flow outside of the exhaust passage after wet treatment and the weight on the housing with the weight minimizing propagation of energy from

the ultrasonic transducer to a wall of the housing by shifting the characteristic frequency of the wall of the housing. The patent to Harris (as at 33, 50) and Olsson (as at 9) are each cited disclosing sonic arrangements, where the sonic arrangements are provided with a weight for controlling the propagation of the ultrasonic waves as is common in the sonic/vibrator art. It therefore would have been obvious to one having ordinary skill in the art to modify the ultrasonic cleaner in Lemelson, to include a weight as taught by either Harris or Olsson, for the purpose of increasing the efficiency and stability of the transducer and the efficacy of the sonic wave transmission since it is old and known in the art to remove parasitic/interfering waves. As for the pressure being controlled as claimed, given the corresponding structure in Lemelson, to have the pressure controlled as claimed is of little patentable weight (see MPEP 2114 APPARATUS CLAIMS

#### MUST BE STRUCTURALLY DISTINGUISHABLE FROM THE PRIOR ART

>While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. >In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (The absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of claimed apparatus because the limitations at issue were found to be inherent in the prior art reference); see also In re Swinehart, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); < In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). " [A]pparatus claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original).

#### MANNER OF OPERATING THE DEVICE DOES NOT DIFFERENTIATE APPARATUS CLAIM FROM THE PRIOR ART

Art Unit: 1746

A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987) (The preamble of claim

1 recited that the apparatus was “for mixing flowing developer material” and the body of the claim recited “means for mixing ..., said mixing means being stationary and completely submerged in the developer material”. The claim was rejected over a reference which taught all the structural limitations of the claim for the intended use of mixing flowing developer. However, the mixer was only partially submerged in the developer material. The Board held that the amount of submersion is immaterial to the structure of the mixer and thus the claim was properly rejected.).

Re claims 16-19 and 29, to position the weight at various locations, or to have the same of different including wall thickness (size), is deemed to be an obvious matter of design in view of the corresponding structure in either Harris or Olsson. This is considered to be a mere rearrangement of parts and a change in size (see **MPEP 2144.04**

**REVERSAL, DUPLICATION OR REARRANGEMENT OF PARTS** and **MPEP 2144.04, CHANGES IN SIZE, SHAPE, OR SEQUENCE OF ADDING INGREDIENTS**). This is also deemed applicable to the subject matter of claims 28 and 32.

3. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection. In regard to the remarks on the Lemelson reference, namely that Lemelson fails to disclose the pressure controller as claimed, note that Lemelson disclose the use of a “computer, to also control the position”. It is the examiner's position that both the pressure and position are computer controlled. Automated control systems, may control various operations in many programmed scenarios as desired.


4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In Elbert et al., note the weights

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (572) 272-1308. The examiner can normally be reached on M-F from 5:30 am to 2:00 pm and some Saturdays from approximately 5:30 am to 11:30 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr, can be reached on (571) 272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

fls

  
FRANKIE L. STINSON  
Primary Examiner  
GROUP ART UNIT 1746